

## APPEAL NO. 010352

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on January 30, 2001, the hearing officer resolved the disputed issues by determining that during the qualifying periods for the fifth and sixth quarters, the appellant (claimant) did not attempt in good faith to obtain employment commensurate with his ability to work and that is he not entitled to supplemental income benefits (SIBs) for those quarters. The claimant has requested our review, asserting that the hearing officer ignored both the medical evidence of the seriousness of the claimant's injuries and the number of employment contacts he actually made. The response filed by the respondent (self-insured) points out that, as the hearing officer found, the claimant, though making numerous job search contacts, failed to do so each week of the qualifying periods.

### DECISION

Affirmed.

The hearing officer did not err in determining that the claimant is not entitled to SIBs for the fifth and sixth quarters. The requirements for entitlement to SIBs are set forth in Sections 408.142 and 408.143, and in Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). Concerning the requirement that during the qualifying periods the claimant made a good faith attempt to obtain employment commensurate with his ability to work, Rule 130.102(e) provides, in part, that "an injured employee who has not returned to work and is able to return to work in any capacity shall look for employment commensurate with his or her ability to work every week of the qualifying period and document his or her job search efforts." The claimant's Application for [SIBs] (TWCC-52) forms reflect that during the fifth quarter qualifying period (April 29 through July 28, 2000, the claimant made 57 job search contacts. However, the first of such contacts was on May 10, 2000, and the last on July 14, 2000. As for the sixth quarter qualifying period (July 29 through October 27, 2000), the claimant made 54 contacts with the first contact made on August 7, 2000, and the last on October 16, 2000. The claimant obviously failed to make, or at least document, a job search contact during each week of the qualifying periods. Accordingly, the hearing officer's determinations that during the qualifying periods the claimant did not attempt in good faith to obtain employment commensurate with his ability to work and thus is not entitled to SIBs are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The decision and order of the hearing officer are affirmed.

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Philip F. O'Neill  
Appeals Judge

CONCUR:

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Susan M. Kelley  
Appeals Judge

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Robert W. Potts  
Appeals Judge